

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

STEPHEN ALAN ALBERTS, II,	)	
	)	Civil Action No. 09 - 399
Plaintiff,	)	
	)	Judge Gary L. Lancaster /
v.	)	Magistrate Judge Lisa Pupo Lenihan
	)	
WHEELING JESUIT UNIVERSITY and DR.	)	
LETHA ZOOK	)	
	)	
Defendants.	)	

**ORDER**

The above captioned case was initiated on April 6, 2009, by the filing of a Motion to Proceed In Forma Pauperis (Doc. No. 1) accompanied by a Complaint. The case has been assigned to Judge Gary L. Lancaster and was referred to Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules.

The Magistrate Judge's Report and Recommendation (Doc. No. 45), filed on September 18, 2009, recommended that the Defendant's Motion to Dismiss Amended Complaint or In the Alternative to Transfer (Doc. No. 40) be granted in the form of a transfer of this action to the United States District Court for the Northern District of West Virginia. It further recommended that Defendants' September 9, 2009, Motions to Dismiss on other grounds (Doc. Nos. 39 and 42) be denied as moot. The Plaintiff was served at his address of record and counsel for the Defendants were served electronically. The parties were advised they were allowed ten (10) days from the date of service to file written objections to the report and recommendation. Plaintiff filed timely Objections (Doc. No. 47) on September 29, 2009. Plaintiff's objections are found to

be without merit. After a review of the pleadings and documents in the case, together with the report and recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 30 day of Sept, 2009;

**IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss Amended Complaint or In the Alternative to Transfer (Doc. No. 4) is **GRANTED**, and the Clerk of Court is directed to transfer this action to the United States District Court for the Northern District of West Virginia **FORTHWITH**.

**IT IS FURTHER ORDERED** that Defendants' Motion to Dismiss for Lack of Jurisdiction and Insufficient Service of Process (Doc. No. 39) is **DENIED AS MOOT**.

**IT IS FURTHER ORDERED** Motion to Dismiss Amended Complaint for Failure to State a Claim Upon Which Relief Can Be Granted (Doc. No. 42) is **DENIED AS MOOT**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 45) of Magistrate Judge Lenihan, dated September 18, 2009, is adopted as the opinion of the court.

By the Court:

A handwritten signature in black ink, appearing to read "G. L. Lancaster", written over a horizontal line.

Gary L. Lancaster  
Chief United States District Judge

cc: Lisa Pupo Lenihan  
United States Magistrate Judge

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